

MICHIGAN CORPORATION & SECURITIES BUREAU

RELEASE NO. 81-3

TO: ALL INTERESTED PARTIES

SUBJECT: Securities Interpretive Opinion - No Action Letter Procedure

General Background

The Michigan Corporation and Securities Bureau (the "Bureau") is often asked to give legal advice regarding the Michigan Uniform Securities Act (the "Act"). The Bureau is not a substitute for private legal counsel. It is authorized to provide assistance only in the form of Interpretive Opinions and No Action Letters relating to a specific fact situation.

Before requesting any action from the Bureau, you should review the facts with your legal counsel who will be familiar with your situation. If, after a thorough review, you and your counsel wish the assistance of the Bureau, you may request that the Bureau review your situation and issue an Interpretive Opinion or a No Action Letter addressed to the specific legal issues raised.

Action or Interpretation:

Please use the following form when requesting an Interpretive Opinion or No Action Letter:

1. State what section of the Act or Rules the request concerns and what action is being requested from the Bureau. For example, a request for Interpretive Opinion concerning the definition of "Security" would be captioned: "Re: Interpretive Opinion Request, Section 401(1), 1964 PA 265, as amended."
2. State the fact situation underlying the request completely and accurately. Include as attachment two copies of all relevant documents including offering materials, contracts, etc.
3. State concisely the legal issues presented by your request.
4. Present your legal counsel's analysis of the issues presented and counsel's conclusions with supporting authority. If private counsel has not stated an opinion, provide your analysis of the issues presented and your conclusions.

The Bureau is not required to respond to such requests and will not consider requests based on hypothetical facts, past transactions or involving unnamed parties. All parties must be fully identified and the facts stated completely and accurately.

Under the Act, the Bureau must review securities registration applications within a specified time period. Consequently, requests for Interpretive Opinions and No Action Letters are of lower priority and because such requests require indepth review of the information presented and the applicable law, a considerable time period may elapse before the opinion or letter is issued.

Both Interpretive Opinions and No Action Letters are provided only for the use of the person requesting them. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the opinion or letter should not rely on it. Interpretive Opinions and No Action Letters will not be relevant to past fact situations.

Interpretive Opinions and No Action Letters have the following scope and effect:

1. Interpretive Opinions - After a review of the relevant facts presented, the Bureau may issue its findings as to the applicability of the Act to the situation presented in the form of an Interpretive Opinion. An Interpretive Opinion is not binding on a court and represents only the Bureau's judgement relative to the fact situation submitted in light of existing judicial, legislative and administrative history. Changes in the Act or Rules and new court decisions may lead to different opinions being issued in similar fact situations. An Interpretive Opinion has no precedent value.
2. No Action Letter - After a review of the relevant facts presented, the Bureau may issue a No Action Letter stating that it will take no enforcement action against the parties involved if all the facts presented are true and complete. If the actual fact situation is different in any way from that presented, the No Action Letter is not binding on the Bureau. Such no action positions are taken by the Bureau only when it finds that it is not in the public interest under the facts and circumstances presented to pursue enforcement action. A No Action Letter does not preclude investors, other regulatory agencies or any other persons from asserting their rights under the Act.

Requests for Interpretive Opinions and No Action Letters should be addressed to:

Donald J. Reis
Director, Examination Division
Michigan Corporation & Securities Bureau
6546 Mercantile Way
P.O. Box 30222
Lansing MI 48909

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Authority:

Act 264 of 1964, Section 413(f).

Signed by E. C. Mackey, Director
Corporation & Securities Bureau
Dated: August 5, 1981